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| APPLICATION NO.       | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------|-------------|----------------------|---------------------|------------------|
| 09/871,176            | 05/31/2001  | Andrew J.R. Smith    | 3499-120            | 9946             |
| 56678                 | 7590        | 12/06/2007           | EXAMINER            |                  |
| LEE & HAYES, PLLC     |             |                      | SURVILLO, OLEG      |                  |
| 421 W. RIVERSIDE AVE. |             |                      |                     |                  |
| SUITE 500             |             |                      | ART UNIT            | PAPER NUMBER     |
| SPOKANE, WA 99201     |             |                      | 2142                |                  |
|                       |             |                      |                     |                  |
|                       |             |                      | MAIL DATE           | DELIVERY MODE    |
|                       |             |                      | 12/06/2007          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 09871176                        | 5/31/2001   | SMITH ET AL.                                      | 3499-120            |

**EXAMINER**

Oleg Survillo

|          |       |
|----------|-------|
| ART UNIT | PAPER |
|----------|-------|

2142                    20071203

**DATE MAILED:**

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner for Patents

Sir:

In response to the Arguments/Remarks made in Amendment filed on October 22, 2007 in connection with the above-identified patent application, please see attached Notice of Non-Responsive Amendment.

12/03/2007

## DETAILED ACTION

### *Response to Amendment*

1. The reply filed on 22 October 2007 is not fully responsive to the prior Office Action because a request for a double patenting rejection to be held in abeyance until the remaining claim rejections are withdrawn does not constitute a complete reply to the Office action.

A request for a double patenting rejection to be held in abeyance until allowable subject matter is indicated is not appropriate because resolving a double patenting rejection is necessary in order to further prosecution of the above-named application and advancing it to final action. See 37 CFR 1.111(b).

Applicants are advised to either:

- file a terminal disclaimer as suggested in the prior Office action in compliance with 37 CFR 1.321(c); or
- traverse the rejection by presenting arguments pointing out why a nonstatutory obviousness-type double patenting rejection made in the prior Office action is improper.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oleg Survillo whose telephone number is 571-272-9691. The examiner can normally be reached on M-Th 7:30am - 5:00pm; F 7:30am - 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Oleg Survillo  
Phone: 571-272-9691

*Andrew Caldwell*  
ANDREW CALDWELL  
EXAMINER